

# THE NATIONAL FOREST MANAGEMENT ACT OF 1976

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Public Law 94-588  
94th Congress, S. 3091  
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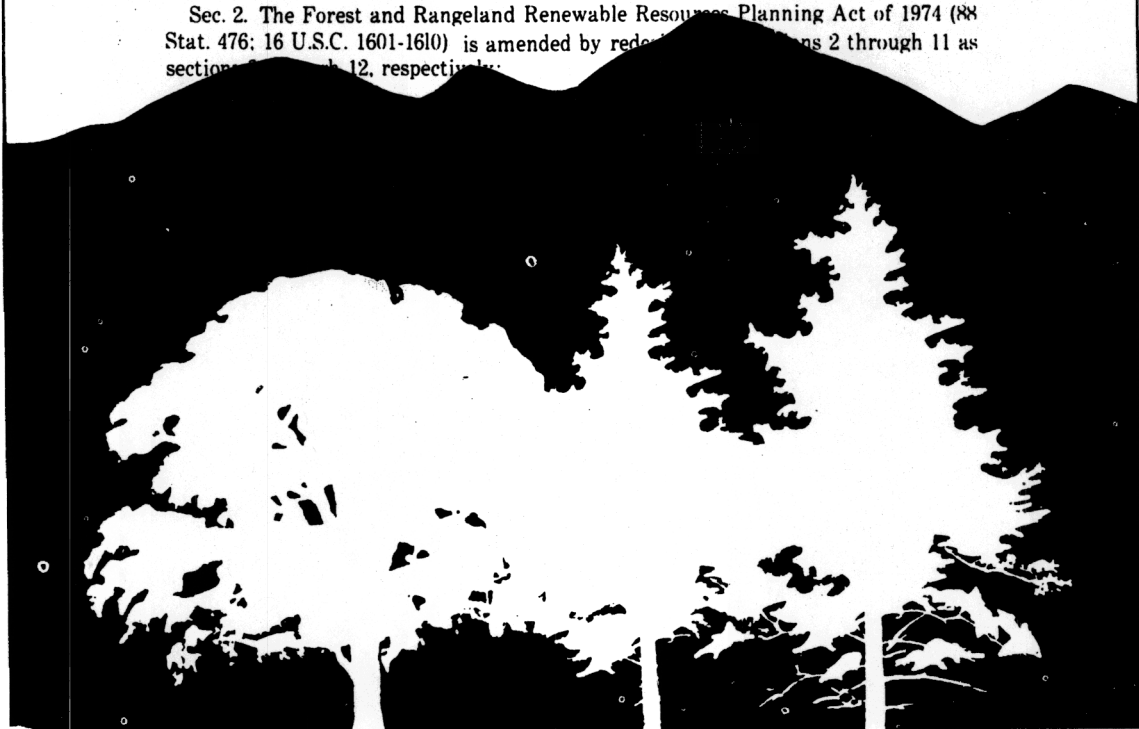
## An Act

To amend the Forest and Rangeland Renewable Resources Planning Act of 1974,  
and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of  
America in Congress assembled, That this Act may be cited as the "National Forest  
Management Act of 1976"*

### FINDINGS

Sec. 2. The Forest and Rangeland Renewable Resources Planning Act of 1974 (88  
Stat. 476; 16 U.S.C. 1601-1610) is amended by redesignating sections 2 through 11 as  
sections 1 through 12, respectively.



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# THE NATIONAL FOREST MANAGEMENT ACT OF 1976

## INTRODUCTION

"Balanced consideration of all resources in the land management process."

This is the essence of the National Forest Management Act as described by President Ford when he signed it October 22, 1976.

He also called it "another important milestone in the evolution of forest policy and conservation law governing our stewardship of a major part of this Nation's great natural heritage, the National Forest System."

But the 1976 law is even more to Forest Service Chief John McGuire. He has cited it as "one of the most important laws regarding forestry ever enacted." Certainly, he said, it is "landmark legislation that ranks in importance with other major laws governing the programs of the Forest Service."

This is high praise for a piece of legislation which was originally proposed in response to a Federal court's conclusion that timber harvesting practices on three timber sales in the Monongahela National Forest were illegal. How correction of some wording on timber sales in 1897 legislation was expanded to affect practically the whole body of Federal forestry activities is emphasized by the fact that the correction is made with only three lines in the 15-page document.

The Act became, as Senator Humphrey, the original sponsor, describes it, "a milestone in Federal policy towards management of our vast National Forest System..."

And "policy" is the key word. Congress made it clear with the Act that it was laying out broad policy direction within which the Forest Service could operate with the flexibility to meet specific forest management needs. Again Senator Humphrey expressed that theme by emphasizing that a National Forest can't be run from Capitol Hill.

The major points of focus in the Act are land-management planning, timber management actions, and public participation in Forest Service decisionmaking. It reaches beyond the 187 million acres of the National Forest System to recognize the importance of scientific research and cooperation with State and local governments and private landowners. So, in effect it addresses all three major areas of Forest Service operations in carrying out its national forestry leadership role--management of the National Forest System, natural resources research and cooperative

forestry assistance to State and private landowners. It is, in fact, a national forest management act.

It should be emphasized that the Congressional action was one of additional policy direction and endorsement, rather than rebuke. Its endorsement of multiple use and sustained yield and additions to the Forest and Rangeland Renewable Resources Planning Act are proof of that. In many areas, Congress indicated it rather liked what the Forest Service was doing in land management planning, forest protection and public participation, while at the same time recognizing a need for extension and improvement of the work now being carried out by the Forest Service. It added significant new direction which in many respects builds on what the agency is already doing.

However, the legislators did not provide the Forest Service with carte blanche. They make quite clear they were going to pay far closer attention to Federal natural resource management. Congress indicated it would be far more active in overseeing how such management is conducted and how well the Forest Service hews to the policy guidelines. It incorporated into law a number of specific directions which had previously been left to the administrative discretion of the Forest Service. In a word, Congress decided to more actively exercise its guiding powers in Federal forest policy.

The Forest Service's professionals will be given every chance to show they can carry out Congressional policy direction without tightly prescriptive legislation. But Congressional action can be expected to correct failures.

Perhaps the most notable significance of the Act is its proof of the workability of the American system of reasoned debate and compromise for the national good. After being created in the crucible of conflict, the final product was hammered out on the anvil of reasonable compromise.

The result is a national forest management policy tailored both to the needs of the people of the United States for natural resources and to the conservation and wise use of the land and its renewable resources.

A major part of the Act is devoted to strengthening the Forest and Rangeland Renewable Resources Planning Act (RPA). All but one of the first 12 sections are amendments to it, nearly tripling the length of the Resources Planning Act. These amendments include requirements for recommendations in the RPA Program which evaluate major Forest Service program objectives; explain opportunities for all forest and rangeland owners to improve their lands; recognize the need to improve and protect soil, water and air; state national goals relating to all renewable

resources; and evaluate the impact of log exports and imports on domestic timber supplies and prices. Other RPA amendments also require reports on the status of major research and reports in the Assessments on additional fiber potential on all forest lands. Other major significant highlights of the Act, and some of their implications are as follows:

## HIGHLIGHTS

### National Forest System Land Management Planning

\*Land management planning direction is the core of the Act. Regulations will be issued describing the process for development and revision of land management plans. Management guidelines will deal with overall NFS land management and require that lands be identified according to their suitability for resource management.

\*These guidelines will relate to the RPA Program goals to ensure that economic, environmental, and ecological aspects are consistent with the Multiple-Use Sustained-Yield Act and RPA. They will provide for the diversity of tree species and plant and animal communities, with research and management evaluation to prevent impairment of the land's productivity.

\*Each National Forest System unit will prepare, with the aid of interdisciplinary teams and public participation, an integrated, comprehensive land management plan to be revised at least every 15 years. The land management plan and supporting functional plans must be brought together in one place in one document or a series of documents so they are more readily accessible to the public.

### Timber Management

\*The Act contains direction on the nondeclining even-flow practice followed by the Forest Service. The annual allowable harvest from each National Forest will generally be limited to a quantity equal to or less than a quantity which can be removed annually on a sustained yield basis. The Act sets this nondeclining even-flow as policy, but gives the resource manager flexibility to depart from this policy through land management planning including public participation on a case-by-case basis. Departures from the standard policy must be in harmony with multiple use-sustained yield objectives of the land management plan.

\*Land areas not suitable for timber production will be identified in land management plans considering physical, economic and other factors. They are not to be harvested for 10 years except for salvage sales or sales to protect other multiple use values. Such lands will be reviewed every 10 years thereafter and may be returned to production if appropriate.

\*Silvicultural standards will insure that, generally, stands of trees shall be harvested when mature (culmination of mean annual increment of growth). However, timber stand improvement measures, salvage operations and removal of trees for multiple-use purposes are not precluded. This means that trees within the National Forests in general should be sawtimber rather than pulpwood size before harvesting. The Act also directs that an adequate diversity of plant and animal species should be maintained. In brief, there should be no large-scale conversions of National Forest lands to a single-tree species.

\*The Act incorporates into law the substance of the so-called "Church Guidelines" on clearcutting--the present policy of the Forest Service. These guidelines include the caution that clearcutting should only be used where it is the most optimum silvicultural method.

\*The Act repeals the section of the Organic Act (16 U.S.C. 476) that the courts had interpreted to mean no timber could be sold that was not dead, physiologically mature, or of large growth and individually marked.

\*Congress also arranged for specific funding for certain programs related to timber and, through the Act, authorized a \$200-million annual appropriation and directed an expedited schedule for reforestation and timber stand improvements in accordance with land management plans. Such intensification of timber management can be used to justify increases in timber harvests. It also provided for funding of salvage sales (for road design, engineering and supervision and sale preparation and supervision) to be financed through monetary deposits from purchasers of those sales. The use and amount of collections of the Knutson-Vandenberg deposits (the K-V fund) has been broadened to include sale area improvements including wildlife habitat plus maintenance and construction of improvements.

\*Timber sales drew particular attention. Major requirements set were: (1) a 10-year limit, with exceptions, is now placed on timber sales and extension of sale periods are restricted; (2) the possibility of collusion among bidders is addressed by requiring sealed bids (with the Secretary allowed some discretion for permitting a mix of bidding), and the establishment of monitoring systems and a report of instances of collusion; (3) each successful bidder must provide a plan of operations, if the sale exceeds 2 years.

\*Except for roads planned for permanent use, all roads constructed within the National Forest System will be planned with the goal of reestablishing vegetative cover by natural or artificial means within 10 years after use is discontinued. And small business purchasers can elect to have the Forest Service construct roads to timber sale areas if the estimated cost of construction exceeds \$20,000, instead of receiving purchaser credits. When such election is made, timber sale receipts are available for the construction of the roads.

#### Public Participation

\*Public participation in review and revision of land and other resource management planning was a prime priority in Congressional thinking. The phrases "public participation" or "public involvement" are used 11 times in the Act and are clearly indicated in other sections.

\*A Committee of Scientists--composed of non-Forest Service personnel--is to be established to help develop regulations for all land management planning, including timber and other resource plans, by providing scientific advice and counsel, and to insure that the planning process is interdisciplinary.

\*In addition, advisory committees will be established to insure public review and comments on standards, guidelines and criteria applicable to Forest Service programs.

\*Regulations must be written to carry out the public participation aspects of the law. Not only has Congress ordered fuller public participation in the decisionmaking process, but it also made rules so the public can participate with relative ease.

#### Statutory Status

With this Act, Congress has determined that the designation of National Forests should be permanent unless it otherwise decrees. Many existing forests were created by Presidential proclamation. This law essentially gives them statutory status. They can no longer be returned to the public domain by executive order.

#### Payments to States

The National Forest Management Act adds some elements to allow increases in payments to local governments from National Forest receipts. The basis for computing 25 percent payments to States is changed to include K-V collections from timber purchasers and purchaser credits for the construction of permanent roads.

## IMPLEMENTATION

The National Forest Management Act offers great potential for sound management of the National Forests in the public interest. Whether this potential is realized depends on how well the Forest Service carries out the requirements of the Act. Congress endorsed the concept that land management prescriptions should be the province of the professional resource manager, not the legislators. For the time being, it has bypassed restrictive legislation in favor of policy direction. However, if Congress doesn't like what it sees in the way its direction is being carried out, there's no doubt it will be back with more direction and also more restrictions.

The Forest Service intends to give high priority to implementation of the Act. It plans to use the top talent of the agency in developing the required regulations, procedures, guidelines and other actions. The field units as well as the Washington Office will take part in the implementation process.

There are some tasks which must be done immediately; others will be carried out over a period of several years. A number of task forces have been established to put the legislative requirements into action. All directions and regulations prepared to implement the Act will be reviewed by Legislative Affairs and the Office of the General Counsel to assure they are consistent with the provisions of the Act and the intent of Congress.

Following are the major tasks to be accomplished in implementing the Act. Along with the identification of the task is the action being taken to implement it, and the W.O. staff unit with the lead responsibility for accomplishment. A reference to the section of the Act requiring the action is also included.

### NATIONAL FOREST SYSTEM LAND MANAGEMENT AND RESOURCE PLANNING

Tasks: Provide interim direction to field offices on land management planning and resource planning procedures.

\*

Write regulations that (1) set out the process for developing and revising land management plans and (2) specify guidelines affecting resource management options and approaches. The Secretary is required to appoint a Committee of Scientists to assist in the development of the regulations. The regulations must be issued within 2 years. (section 6 "(g)" and "(h)").



By September 30, 1985, incorporate the new guidelines as defined in the regulations into National Forest System land management plans. (section 6 "(c)")

Revise as soon as practicable existing resource plans, permits, and contracts to be consistent with land management plans. (section 6 "(d)").

Action: The Land Management Planning Staff will be responsible for completion of these tasks. It will use the Forest Service Management Model as the process for completing these assignments. Two interdisciplinary work groups have been established. One will formulate interim direction to the field. The other will identify and schedule all the individual elements of the general tasks to be done through completion. It will also identify the skills, lead and coordination responsibilities, and resources required for implementing all the provisions of section 6 of the Act that relate to planning. Initial meetings of the work groups took place in November. Upon approval by the Chief, the recommendations of these work groups will be transformed into directives and detailed assignments and plans.

Task: Provide process to insure research on (and evaluation of the effects of) each management system used in guidelines for NFS management so plans will not produce substantial and permanent impairment of the productivity of the land. (section 6(g) 3(c)).

Action Research will work with NFS to identify a management system-~~area~~ classification for which information will be obtained on: 1) available knowledge about sustained productivity for each system-area combination, 2) additional research questions, 3) progress on questions currently under study, and 4) future research plans. Research will begin immediately to develop subassignments and reporting dates. The process is required "as soon as practicable, but not later than 2 years after enactment." A continuing internal reporting scheme that encompasses the full range of research application--on State and private and other Federal lands as well as NFS--is anticipated.

NFS will include evaluation and revision of agency field operations as part of the management process and develop guidelines.

## FOREST MANAGEMENT AND TIMBER SALES

- Task: Develop procedures for the identification of lands needing reforestation and lands with stands of trees that are not growing at their best potential. Develop procedures for the inspection and certification of treatment results and for scheduling followup treatments. (section 4)
- Action: The Timber Management Staff working with the Land Management Planning Staff will develop guidelines on how the existing inventory of commercial forest lands in need of reforestation and with increased growth potential is to be adapted to meet the requirements of the Act. Additional guidelines explaining how noncommercial forest lands are to be inventoried, and how the certification process will operate, will also be developed by Timber Management.
- Task: Establish standards on culmination of timber growth. (section 6 "(m)"). (The Secretary is required to establish standards to insure that stands of trees shall generally reach the culmination of mean annual increment of growth before they are harvested.)
- Action: The Timber Management Staff, with input from the Timber Management Research Staff and the Land Management Planning Group, and in consultation with the Committee of Scientists, will develop the required standards.
- Task: Review existing directives which limit timber removal quantities and revise as necessary to incorporate any new requirements or direction. (section 11). (New section 13 to RPA).
- Action: The Timber Management Staff, in cooperation with the Land Use Planning Staff, will refine present Forest Service Manual policy to incorporate even-flow, non-declining yield provisions of PL 94-588 into revised policy statements and instructions to field units.

Tasks: Write regulations governing the advertisement, bidding, sale and disposal of trees (section 14(a), (d), (e), & (f)).

Develop directives outlining what is to be required in timber sale plans (section 14(c)).

Develop policies and administrative procedures governing the collection of deposits to cover costs of salvage timber sales. (section 14(h)).

Write regulations on timber sale road construction options afforded to small business concerns (section 14(i)).

Action: An interim regulation was issued on November 4, 1976, temporarily authorizing continuance of older timber sale regulations, pending the issuance of permanent regulations. The interim regulation is to be replaced with permanent regulations by April 1, 1977. The interim regulation retained most of the previous regulations but added the requirement that sealed bidding would be predominant, rather than oral bidding.

Four multi-discipline task forces are being set up under the direction of the Timber Management Staff to work on development of directives and regulations covering the key changes in timber sale procedures required by the Act:

- (1) length of sale period and operating plan requirements;
- (2) funding of salvage sales;
- (3) Optional road construction by small business firms;
- (4) collusive bidding and sealed bidding procedures.

Task: Develop utilization standards, methods of measurement, and harvesting practices to provide the optimum practical use of wood material. (section 14(h)).

Action: The Timber Management Staff will consult with the Regions, the Forest Products Laboratory, S&PF specialists in forest products utilization, and industry groups to develop the utilization standards, measurement methods, and harvesting practices.

Task: Revise 50-year timber sale contracts in Alaska (section 15(b)).  
(The Secretary is required to revise such contracts to make them consistent with the new guidelines and standards that will be developed pursuant to the Act.)

Action: The Alaska Region has been given the assignment to draft and submit proposed procedures to modify long-term sales. These proposals will be reviewed by the Office of the General Counsel, Administrative Services and Timber Management prior to implementation.

Task: Develop directives governing the collection and use of KV deposits for protecting and improving the future productivity of the renewable resources of the forest land within each timber sale area, including sale area improvement operations, maintenance and construction, reforestation and wildlife habitat management. (section 18).

Action: The Timber Management Staff will form an interdisciplinary Ad Hoc Team which, working under the guidance of a National Steering Committee, will formulate national policy on implementation of the amendment to the Knutson-Vandenberg Act. Recommendations will be received on the amount of collections that will be permitted and the proper use of such deposits.

#### RENEWABLE RESOURCE PROGRAM EXPANSION

Task: Include in the first and subsequent revisions of the Renewable Resource Program recommendations which: (1) evaluate objectives for the major Forest Service programs; (2) explain the opportunities for private owners to participate in programs to improve their forest and rangelands; (3) recognize relationships within renewable resources; (4) state national goals that recognize relationships within renewable resources; and (5) evaluate the impact of log exports and imports. (section 5.)

Action: (1) The RPA program process will include the requirement to evaluate Forest Service programs. The RPA Program Staff will conduct the evaluation. It will be done with the Multi-resource Use Interaction Model and through multi-objective analysis. The Model analyzes and interacts major resource components of the Assessment to determine the implications of various alternative management directions.

(2) The opportunities for private owners will be identified in the RPA program. Input will be obtained from State & Private Forestry, and the RPA Program Staff will incorporate the data into the Program.

(3) Recognition of the relationships within renewable resources will be considered throughout the development of the RPA program and quantified through use of the Multi-resource Use Interaction Model. Also the Program EIS will document this need. The RPA Program Staff will be responsible for this task.

(4) The statement of national goals will be covered in detail in the RPA program. The national goals will be thoroughly analyzed to show the interrelationship and interdependence among the renewable resources. The RPA Program Staff will handle the task.

(5) The evaluation of the impact of log exports and imports will be covered in both the RPA Assessment and Program. The situation will be described in the Assessment and the relationship to Forest Service programs will be included in the RPA program. Information will be obtained from the W.O. Forest Economics and Marketing Staff and the Foreign Trade Analysis Unit, Pacific Northwest Station.

#### REPORTS TO THE PRESIDENT AND CONGRESS

**Task:** Report in the 1979 and subsequent Renewable Resource Assessments on three new subject matter areas. Section 3 of the Act requires reports on additional fiber potential in the National Forest System, potential for increased utilization of forest and wood product wastes, and milling and other wood fiber product fabrication facilities.

**Action:** The reports on fiber potential and on increased utilization will be incorporated into the timber element of the Assessment and will be managed by the Assessment Lead Team. Timber Management and Renewable Resource Evaluation Units will provide information for the reports.

The report on milling and products will be included in the Assessment and managed by the Assessment Lead Team. Data for the report will be obtained from the Forest Products Laboratory and from State and Private Forestry.

Task: Report to Congress annually on certain additional activities and conditions.

A. Commencing with his submission of the annual report with the budget for fiscal year 1978, the Secretary is required by Section 4 of this Act to report annually on National Forest System lands which, according to objectives of land management plans, need to be reforested or contain stands of trees that are not growing at their best potential rate. He is also required to report the sums necessary to reforest and otherwise treat all lands being cut over, plus the sums necessary to eliminate backlogs within 8 years.

Action: The Timber Management Staff will prepare the report based on the reforestation inventory and submit it to the Program Development and Budget Staff for transmittal to Congress in conjunction with the annual RPA evaluation report.

B. The Secretary is also required to include the following in future RPA annual evaluation reports.

1. A Report on his progress in incorporating the newly required standards and guidelines in land management plans (section 6 "(c)").

Action: The Land Management Planning Staff will prepare this report and transmit to Program Development and Budget Staff for submission with the RPA annual evaluation report.

2. A summary of data and findings resulting from the analysis of the long-term costs and benefits of various programs (section 6 "(1)"). An initial part of this sub-task will be to formulate and implement the analysis process.

Action: The Program Development and Budget Staff will assemble the process information available from the RPA and the 1979 Program Budget procedures which are now being worked on. The process will have to be refined to be responsive and specific to the direction in the Act. This will be done through use of available information and additions as necessary.

3. A description of the status of major research programs and findings and how those findings will be applied (Section 7).

Action: The Deputy Chief for Research will assemble an annual report of significant research findings and implications. The report will be built upon the new system of attainment reporting and will feature the implications to NFS as one part of the overall report.

- C. The Secretary is required by section 4 of the Act to submit a special report to Congress on amounts, types, uses and effects of herbicides and pesticides used within the National Forest System.

Action: Preparation of this report will be the responsibility of Forest Insect and Disease Management. It is intended that the report will be automated, through the Computer Science Management Staff, to augment the existing pesticide-use reporting system. Field input to the Fort Collins facility and W.O. presentation of a summary report is expected. It is assumed that the report will include only land management uses of pesticides and that the narrative of the benefits and adverse effects will be by major category of use. The procedural aspects, preparation of instructional materials, and training for this effort should be accomplished in time to prepare the FY 1977 report.

By March 1, 1977, conduct a study on Dutch elm disease and submit a report to the President and Congress on a plan for control of the disease. (Section 20).

Action: Research is developing a proposal that the Secretary of Agriculture assign specific responsibility for the Dutch Elm disease study to the Forest Service with cooperation from the Agricultural Research Service, Cooperative State Research Service, Animal and Plant Health Inspection Service, and Extension Service. Informal contact on this proposal has been established between the Forest Service and the other agencies. In addition, Research is developing a research plan and, with State and Private Forestry, is outlining a plan to determine disease incidence, control effectiveness, and plans for additional "outreach and public information about the disease."

#### TRANSPORTATION SYSTEM

Develop directives for implementing the requirement of Section 8 of the Act that non-permanent roads be designed with the goal of reestablishing vegetative cover on the roadway within 10 years after termination of the contracts or permits which authorized their construction.

Action: An interdisciplinary group in NFS will review existing policies on non-system roads to determine what additional direction may be needed.

## PUBLIC PARTICIPATION AND ADVISORY BOARDS

Write regulations establishing procedures for giving Federal, State, and local governments and the public adequate notice and an opportunity to comment on the formulation of standards, criteria, and guidelines applicable to Forest Service programs. (Section 11) (New Section 14 to RPA)

Action: The Office of Information will prepare these regulations by August 1977. Preliminary work suggests the regulations will focus on the factors to be considered by line officers in determining if newly formulated standards, criteria, and guidelines need or require review because of significant impact upon the public or segments of the public. Initial factors now under consideration for adoption as regulation parallel those in the National Environmental Policy Act and in the USDA Consumer Representation Plan (Federal Register Vol. 41, September 28, 1976) which assist line officers in determining whether significant consumer impact is likely and, therefore, require public notice and review.

Office of Information will also work with other staff units and task forces to incorporate public participation into other directives and regulations as required.

Establish advisory boards from groups interested in the administration of the National Forest System to secure information and advice on the execution of planning and management responsibilities. (Section 11) (New Section 14 to RPA).

Action: Establishment of new advisory committees at the National, Regional, and Forest Supervisor levels will be the responsibility of the Administrative Management Staff, in coordination with other WO units, Regions, Stations, and Areas.

The scope of the Regional committees has been broadened beyond the minimum requirements set forth in the National Forest Management Act. These committees will advise on Research and S&PF in addition to NFS activities. A National NFS Advisory Committee will be established to supplement the existing S&PF National Advisory Committee.

One combined request for establishment of a National and eight Regional committees is being processed to the Office of Management and Budget. The existing advisory committee for the California Region will be expanded by charter amendment. Regional requests for establishment of Forest advisory committees will also be consolidated into one combined action. Forests that now have multiple use advisory committees will not need to establish new committees, but can continue the existing committees until the current charters expire.



## PAYMENTS TO STATES

- Task: Establish procedures for estimating projected revenues and payments to States, and for making such information available to States for their use in local budget planning. (Section 16).
- Action: The 1977 and 1978 receipt and payment information will have to be corrected to reflect the inclusion of purchaser credits and KV receipts. This will be added to base on which payments to States can be made. This will be done by the Program Development and Budget Staff with information available in the W.O. However, it will be necessary to obtain information from the field on the effects of the new law on the counties so that States can be provided with the current projections of revenues and payments estimated to be available in 1978.

## LAND ACQUISITION

- Task: Develop directives governing the preparation and submission of reports to Congress on land purchase or exchange proposals, and governing the final dispensation of such proposals. (Section 17). (Applies only to purchases or exchanges of \$25,000 or more which previously went before the National Forest Reservation Commission.)
- Action: The Lands Staff is drafting proposed changes in the Secretary's Rules and Regulations and the review and approval procedures for consideration by the Office of the General Counsel and concurrence in the Secretary's Office. After these have been agreed upon, arrangements will be made to meet with members of the House Agriculture Committee and the Senate Agriculture and Forestry Committee and their staffs to determine the information and procedures desired for cases sent to them.

## OTHER AREAS

- Task: Determine for budget preparation purposes, the cost of implementing the Act.
- Action: The Program Development and Budget Staff has obtained from the Deputy areas estimates of additional requirements of manpower and dollars needed to implement the Act for fiscal year 1977 and 1978. This will be consolidated, approved by the Chief, and sent to the Department and OMB for action.

## BACKGROUND

The highlights and implementation process of the Act have already been examined. The question of what precipitated the legislation will be answered now as the evolution of the Act is traced. Basically, an appeals court action in August 1975, known as the Monongahela decision, triggered the creation of the National Forest Management Act of 1976.

In the Monongahela decision, the Fourth Circuit Court of appeals affirmed a 1973 District Court decision limiting Forest Service authority to sell timber on three sales on the Monongahela National Forest in West Virginia. The decision interpreted the Organic Act of 1897 as allowing that only "dead, physiologically mature, and large growth" trees, individually marked for cutting, could be sold. Although the decision was limited to the three sales considered by the District Court, the Forest Service applied the decision to all nine National Forests under the jurisdiction of the Fourth Circuit after the Court's ruling. If it had been extended nationwide, it would have resulted in a 50 percent reduction in National Forest timber harvests.

The court recognized the impact of its decision and suggested a legislative remedy for the outdated 1897 Act. Meanwhile, the decision spurred additional litigation in Alaska, Texas, Georgia, and Tennessee. The Forest Service outlined the crucial need for statutory authority to enable it to use scientifically accepted forestry measures to assure a sustained yield of natural resources from the National Forest System. After it became clear that spreading litigation could produce chaos, several bills were introduced into Congress. The Administration agreed to the Forest Service working closely with Congressional Committees to develop a solution.

Before proceeding with the legislation that led eventually to the National Forest Management Act of 1976, the Forest Service had considered several possible legislative solutions to the problems created by the Monongahela Decision. A simple solution was hampered by complex developments. First, the Administration could not agree quickly on a bill to send to Congress. This meant it had to react to the myriad of bills submitted by members of Congress. These proposals became increasingly broader and more complex as

various publics became involved, representing divergent positions. Second, the agency also saw this as an opportunity for Congress to provide additional direction on the Nation's forestry policy. Third, it was recognized that legislation was needed to provide the authority to practice scientific forestry in order to carry out the Program developed under the Resources Planning Act. The Monongahela decision, had, in effect, nullified aspects of the Program.

The formulation of a workable compromise proved to be a herculean task. Initially, individual members of Congress proposed a myriad of solutions.

As in any controversial issue, there were basically two sides diametrically opposed to each other in seeking a solution to the Monongahela dilemma. On one side were those who favored a bill submitted by Sen. Jennings Randolph of West Virginia in the Senate (S. 2926) and in the House of Representatives by George Brown of Calif. (H.R. 11894). The Randolph bill included various statutory requirements, specifications and standards which were designed to be legally enforceable and nondiscretionary. The bill perpetuated many of the restrictions of the Monongahela decision. The imposition of statutory definitions would have subjected most of the trees in the National Forests to a growth period of 200-300 years, much longer than necessary. The harvesting of eastern mixed hardwood forests would have been limited to selection cutting. Thinning and clearcutting were allowed in relatively few situations. The bill also called for a general limit on the size of clearcuts to 25 acres, mandatory distances between clearcuts, prevention of substantial cutting of immature trees, and other detailed requirements.

The other side, supported by many conservation groups and the timber industry, rallied around a bill introduced by Sen. Hubert Humphrey of Minnesota in the Senate (S. 3091) and in the House by Rep. Harold Johnson of Calif. (H.R. 12503). The Humphrey bill provided broad goals and direction to the Forest Service without the prescriptive restrictions of the Randolph bill. The Humphrey bill amended the Organic Act in a manner that would establish harmony with the long-range plans provided in the Resources Planning Act. Specific procedures and guidelines relating to management practices were part of the proposed amendment to the Resources Planning Act.

The Randolph and Humphrey bills received the most attention, but there were several other bills introduced. These bills provided such things as temporary authority for timber sales, consistent with provisions of the Multiple Use-Sustained Yield Act, and relief from

the Monongahela decision until Sept. 30, 1977; temporary timber sale authority in Alaska; establishment of a committee to make recommendations to Congress on forest policy with 2 years; elimination of the restrictive language which resulted in the Monongahela decision and allow timber sales based on the direction of the Multiple Use-Sustained Yield Act and the Resources Planning Act. Most of these were piecemeal or temporary approaches.

In April, the Senate Agriculture and Interior Committees and the House Agriculture and Forestry Committee held hearings on the proposed legislation. At those hearings, the Administration reported favorably on the Humphrey bill. The bill also received strong support from many professional scientific groups and the timber industry at that time. A number of environmentalists, led by the "Coalition to Save Our National Forests," supported the Randolph bill. However, support from conservation groups was split, with some, particularly wildlife interests, favoring the Humphrey bill and others, the Randolph bill.

In May, the Senate Committees on Agriculture and Forestry and on Interior and Insular Affairs ordered reported to the full Senate the Humphrey bill, S. 3091, with amendments. Prescriptive amendments by Sen. Randolph and others were not adopted by the Committees although several of the principles were adopted. These and other amendments to the bill did provide additional guidelines for land management plans and provisions to strengthen Congressional direction of national forest management, while granting the Forest Service necessary management flexibility.

At this point, the Forest Service, in considering the varying viewpoints of the committees, concluded that the amended version of S. 3091 was a good compromise of many competing interests. However, there were still more negotiations to follow, and time became an increasingly important factor. The matter was further complicated because, although the timber industry had supported the original Humphrey bill, it opposed certain amendments, particularly those relating to marginal lands, even-flow policy, and roads.

Following the hearings in the House, the late Congressman Litton of Missouri and Congressman Symms of Idaho sponsored a new bill as an apparent compromise proposal. In June, the House Subcommittee on Forestry began markup of legislation by comparing analysis of seven bills. Markup however, was postponed until after the July recess by Congress. The specter of having to start all over again in 1977 became very real with the delay. However, markup was completed in

August, and the Subcommittee introduced a "clean" bill (H.R. 15069) for consideration by the full House Agriculture Committee.

In late August, the Senate tabled a Randolph amendment which would have required uneven-aged management in the eastern National Forests. On the basis of this action, Senator Randolph decided not to call up four other amendments. More importantly, the Senate passed S. 3091 by a vote of 90-0.

On the first day of September, the House Committee on Agriculture reported to the House H.R. 15069 with amendments. Some of these amendments such as provisions that timber purchaser road construction credits and K-V deposits be considered as receipts for 25 percent fund purposes were already contained in the Senate bill. Others were not, such as provisions for establishment of standards to assure stands reached culmination of mean annual increment prior to harvest; adoption of a "sunset" provision tying appropriations authorizations to submission of the RPA program in 1980 and beyond; and adoption of general language placing emphasis on the Forest Service's responsibility to be diligent in seeking to prevent collusion in timber sale bidding. In addition, two proposed amendments included in S. 3091--the even-flow nondeclining yield policy and restriction on sales on marginal lands--were not adopted by the Committee. The House passed the bill on September 17 by a vote of 305-24.

Working under tight deadline pressure for the bill to be passed by both houses of Congress before adjournment, the Senate-House conferees began to resolve the differences between the two bills. Finally, on September 28, a last compromise was reached and a bill was reported out of conference.

In resolving differences between the Senate and House versions of the bill, the conferees agreed to retain the Senate's even-flow nondeclining yield policy. However, language was added to give the Forest Service some flexibility in departing from the policy where multiple use objectives could be met in the land management plan, with any exceptions to be spelled out by the Secretary in regulations. The Senate provision on the cost of production on marginal lands was not adopted. Instead, a compromise was developed which requires identification of lands not suited for timber production. The "sunset" provision was deleted. The conferees agreed that a provision of the House bill that would have required sealed bids for sales under one million board feet should apply to all bidders for advertised sales. The conferees also dropped the Senate provision

amending the 1964 National Forest Road and Trails System Act to delete the "prudent operator" road provision. Instead, a compromise was reached which permits small businesses to elect to build roads or have the Forest Service build roads when they bid on a sale rather than be allowed purchaser credit. Both houses agreed to the conference report on Sept. 30, just one day before final adjournment. On October 22, the President signed the bill, which then became Public Law 94-588.

Thus, Congress succeeded in reaching a compromise solution to the Monongahela decision which had sparked the legislative process for the National Forest Management Act of 1976. The passage of the National Forest Management Act marked the end of a year of crisis for the forestry profession. But more accurately, it marks the beginning of a new era for Federal forestry, now equipped with the tools needed to practice scientific forest management.

## QUESTIONS AND ANSWERS

Q. What precipitated the National Forest Management Act of 1976?

A. In August 1975, the Fourth Circuit Court of Appeals affirmed a 1973 district court decision limiting Forest Service authority to sell timber on the Monongahela National Forest in West Virginia. The action became known as the "Monongahela decision." In the decision, the courts interpreted the Organic Act of 1897 as allowing that only "dead, physiologically mature, and large growth" trees, individually marked for cutting, could be sold. Although limited to sales in the Monongahela, the decision was extended by the Forest Service to the nine National Forests under the jurisdiction of the Fourth Circuit. The agency estimated nationwide application of the decision would have resulted in a 50 percent reduction in National Forest timber harvests. The court recognized the impact of its decision and suggested legislative remedy for this outdated portion of the 1897 Act. The Monongahela decision also paved the way for additional litigation. The Forest Service outlined the crucial need for statutory authority to enable it to use scientifically accepted forestry measures to assure a sustained yield of natural resources from the National Forest System. Congress set about the task of reconciling the differences of environmental and timber industry groups for a workable compromise.

Q. Did the Forest Service seek a simpler legislative solution than the National Forest Management Act to the problems created by the Monongahela decision?

A. The Forest Service considered several possible legislative solutions but it was hampered by the complexity of developments. First, the Administration could not quickly agree on a bill to send to Congress. This meant it had to react to the myriad of bills submitted by members of Congress. These proposals became increasingly broad and more complex as various publics became involved, representing divergent positions. Second, the agency also saw this as an opportunity for Congress to provide additional direction on the Nation's forestry policy. Third, it was recognized that legislation was needed to provide the authority to practice scientific forestry in order to carry out the Program developed under the Resources Planning Act. The Monongahela decision had,

in effect, nullified aspects of the Program. Congress responded by providing broad policy guidelines and the latitude necessary to use technical forestry skills, scientific knowledge, and professional judgement to manage the national forest and range lands in the best interest of the Nation.

Q. What impact will the Act have on timber sale litigation?

A. The Act validates existing sales provided such sales comply with Forest Service silvicultural plans and sales procedures in effect at the time of sale. The Act provides new statutory timber sale authority for the Forest Service. Cases based solely on violation of the timber sales provision of the Organic Act, such as the Monongahela, would be mooted. For 50-year timber sales in Alaska, the Secretary of Agriculture is directed in the Act to develop 5-year operating plans which are consistent with the new legislation.

Q. Does the Act give the Forest Service the authority necessary to manage the National Forest System for a sustained yield of natural resources?

A. Yes. The National Forest Management Act eliminates the restrictive provisions of the Organic Act and provides the Secretary of Agriculture with the authority and flexibility he needs to manage all the resources of the National Forests in harmony with the guidelines of the Multiple Use Sustained-Yield Act.

In essence, Congress has provided the Forest Service with policy direction, while allowing it latitude to use the scientific silvicultural methods necessary to carry out resource management activities properly.

Q. How does the Act affect the statutory status of National Forest lands?

A. Prior to the Act, the President could establish, abolish, or modify National Forests created from the public domain by proclamation. However, statutory provisions of the Act now permit National Forest System lands to be returned to public domain status only by an Act of Congress. In other words, only Congress can now abolish a National Forest.



Q. How does the Act relate to the Resources Planning Act?

- A. The Act amends the RPA and other laws to improve the management of the National Forest System and to facilitate public involvement and congressional oversight. Many provisions of the Act are directly related to the RPA. The Act provides the Forest Service with the necessary legislative authority to carry out the Program based on the Assessment. The Act also establishes procedures and new requirements for the Assessment, Program, Annual Report on the Program, and other reports.

Q. What reports does the Act require?

- A. Reports on increased fiber potential and utilization are required to be added to the Renewable Resource Assessments. The Secretary must report on reforestation needs in the National Forest System annually. The Secretary is also required to include in future RPA annual evaluation reports progress in incorporating the newly required standards and guidelines in land management plans, a summary of data and findings resulting from the analysis of the long-term costs and benefits of various programs, and a description of major research programs and findings and how those findings will be applied. An annual report on herbicides and pesticides used within the National Forest System is required. A Dutch elm disease study and program is due by March 1, 1977.

Q. How does the Act affect land management planning?

- A. The Act strengthens and refines planning processes by ensuring that both program and land management processes are comprehensive and fully open to the public. The legislation requires public participation in those processes. In general, Congress supported Forest Service planning processes but gave it new directions to improve on what is already being done. Specifically, the Forest Service must make land management plans more readily accessible to the public. It must also achieve better coordination by putting the plans in one document or series of documents and physically locating them in one place.

Q. How does the Act affect the management of forest and rangelands in State and private ownership?

A. The Act requires the Secretary of Agriculture to: (1) report on the potential for increased utilization of forest and wood product wastes in the National Forest System and on other lands; and (2) to recommend opportunities for the owners of forests and rangelands to participate in programs to improve and enhance the condition of these lands and its renewable resource products.

Q. What affect does the Act have on the Forest Service even-flow sustained-yield policy?

A. Congress determined that a relatively even, sustained harvest of timber in perpetuity--a practice already followed by the Forest Service--was the appropriate public policy, and, in effect, mandated a nondeclining even flow. Some discretion was granted in land management planning to depart from that policy under certain circumstances. Increases in harvest levels based on intensified management practices, such as reforestation, thinning, and tree improvement, would be permitted--provided such practices justified increasing the harvest in accordance with balanced multiple use and proper land management planning. Salvage or sanitation harvest of timber stands which are substantially damaged by fire, windthrow, or other catastrophes, or which are in imminent danger from insect or disease attack, would also be permitted, even though it would cause a variance from even-flow.

Q. How does the Act provide for improving public participation in Forest Service plans and policies?

A. The Act requires the Secretary of Agriculture, by regulation, to establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public adequate notice of, and opportunities to comment upon, the formulation of standards and guidelines applicable to Forest Service programs. There is a provision for public participation in the development, review, and revision of land management plans to be conducted in the vicinity of the affected unit for at least three months prior to final adoption. The Secretary is also to establish and consult with advisory boards as he deems necessary, as an additional means of providing public participation in planning for and management of the National Forest System. A committee of scientists, who are not Forest

Service employees, will be appointed to provide guidance in developing regulations applicable to the full scope of land management planning prescribed by the Act.

Q. How does the Act affect clearcutting on the National Forests?

- A. Clearcutting will be permitted when it is determined, through the planning process, to be the optimum method for meeting the objectives of the land management plans. Judgment of whether clearcutting is the optimum method will be based on interdisciplinary review and conclusions. This process places additional emphasis on present land management evaluation practices. The harvesting system to be used will not be selected primarily because it will give the greatest dollar return or the greatest unit output of timber. Until land management plans are adopted, Congress has directed the Forest Service to continue to harvest timber in compliance with the "Church guidelines" recommended by the Senate Subcommittee on Public Lands in 1972 and adopted at that time by the agency. Therefore, the Forest Service does not anticipate the Act will result in any substantial change in the total acreage of National Forest land to be clearcut.

Q. How will the Act affect the payments to States?

- A. The Act will increase the 25 percent payments to States for schools and roads by increasing the base on which such payments are calculated. In addition to the present base consisting of monies received from National Forest receipts, the Act adds (1) all collections under the Knutson-Vandenberg Act of June 9, 1930, from timber purchases for reforestation and timber stand improvement on cutover lands, and (2) all credits to the purchaser in timber sale contracts for construction of permanent roads. Under the provisions of the Act, future payments could increase by 25 to 50 percent to some States and counties.

Q. How will the Act affect the way in which National Forest timber is sold?

- A. The Act requires the Secretary of Agriculture to advertise all sales larger than \$10,000 unless he determines extraordinary conditions exist. Sales contracts will not exceed 10 years unless the Secretary determines that better utilization of forest resources would result from a longer contract period. Sealed bidding will be required for timber sales except where he determines otherwise by regulation. Bids will be monitored

to prevent collusive practices of noncompetitive bidding. Designation, timber marking when necessary, and supervision of the harvesting will be done by Department of Agriculture employees. A plan of operation subject to concurrence by the Secretary must be filed as soon as possible for advertised sales with terms of 2 years or longer. Standards are to be established for the removal of trees and forest products to provide for the optimum practical use of wood material.

Q. How does the Act affect the construction of roads necessary for timber harvest?

A. If the timber purchaser qualifies under the Small Business Act as a "small business concern," and the estimated construction costs of necessary permanent roads exceed \$20,000, the purchaser will have the right, except in Alaska, to elect that the Secretary of Agriculture build the proposed road. If the purchaser elects not to build the road, the purchaser payments will be increased proportionately. All temporary roads will be designed to reestablish vegetative cover on the roadway and related areas within 10 years after termination of the lease, permit or contract. The Act also requires road construction standards appropriate for intended uses considering safety, transportation costs, and impacts on land and resources. This means that roads should be neither over-built nor under-built for their planned purposes.

Q. How will the use of lands not suitable for timber production be determined?

A. The Act requires the Forest Service to identify lands not suitable for timber production considering physical, economic, and other pertinent factors. Reevaluations of such lands will be conducted every 10 years to determine which lands are really suitable for timber production considering those factors. The Forest Service is directed to protect multiple use values on these lands. Salvage sales and sales necessary for protection of those values are permitted. Thus, the conditions under which the agency will manage land for commercial timber production will be more clearly defined and monitored than in the past.

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